

D. REMARKS

This amendment has been timely filed within the time limits for reply under the Certificate of Mailing procedure established by 37 C.F.R. § 1.8. Care has been taken to comply with the latest amendment form requirements resulting from changes to 37 C.F.R. 1.121, March, 2003.

A Letter to the Chief Draftsman and a proposed drawing correction is enclosed. It is proposed to add reference numeral 209 to Figure 26.

To simplify the form of the amendment, the original claims have been cancelled, and claims 11 and 12 have been added. Problems relating to 35 USC § 112 have been considered, and this remaining claim is believed satisfactory in this regard. However, the fact that the claim recites a plurality of legs, and then lists parts of individual legs and references them on a singular basis, as opposed to compound language, would seem compliant with § 112.

In the Office Action the Examiner rejected many of the claims under 35 U.S.C. §§ 102 and 103. Anticipation under 35 USC § 102 is not found unless all of the recited claim limitations are expressly or inherently disclosed in a *single* analogous prior art reference. *RCA Corp. v. Applied Digital Data Systems, Inc.* 221 USPQ 385 (Fed Cir 1984). Stated another way, the concept truly appears novel, at least as of its filing date.

Regarding obviousness per Section 103, *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966) applies. Referring first applicants claim, each leg has a junction region 209 from which three items project. These are an integral, lower foot 208, an integral, upper arm 210, and the upright protrusions 212. The protrusion has a top 226, an elongated, inner edge 225 adapted to contact the similar elongated edge of an adjoining leg protrusion upon assembly, an inclined edge 224 forming a ramp, and a straight edge portion 222 opposite edge 225. The locking recess 211 that is disposed between each arm and protrusion comprises a flat lower ledge 230, bounded by lower vertical arm edge 229 and protrusion edge 222. The function of upper hooks 221 is clarified. Lock function vis-à-vis the previously mentioned parts is also clarified. Importantly, as the lock is press fitted to the assembly during assembly, the legs are compressively captivated together in fixed, radially spaced apart alignment as the protrusions are compressively locked together, with the arm hooks being drawn inwardly into engagement with the top.

Wright patent 1832801 has numerous similarities, including an arguably similar lock with arguably analogous protrusions. This reference like numerous others shows a number of planar elements with slots and tabs and notches that are engaged when complementary parts are fitted to them. However, the detailed part orientation, part functionality, and overall structure as recited rather narrowly in new claim 11 is neither shown nor suggested. In the claim, the inner edges of each leg (i.e., each protrusion edge 225) mutually abut one another whereas in Wright there is a gap. Looking at the lock 89 in Wright Figure 10, for example, there is no analogous inclined, outwardly diverging arm 210 that includes hooks activated specifically by placement of the lock. Even if Wright arguably shows similar structural elements of applicant's invention as now claimed, these elements are not assembled in the same fashion, they do not bear the same physical relationship to one another, and they do not function in the same overall manner as narrowly recited by applicant.

In applying the *Deere* criteria, the claimed invention must be considered as a whole. And, though the differences between the claimed invention and the prior art may seem slight, *the differences in the claimed invention may be the key to advancement of the art. Jones v. Hardy*, 220 USPQ 1021, 1024 (F. Cir. 1984), (emphasis added). The prior art references must be considered as a whole and *they must suggest the desirability* of making the claimed combination if they are to be used as a grounds for an obviousness rejection. *Lindemann Maschinenfabrik GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 488 (Fed. Cir. 1984), (emphasis added). The art fails to make this suggestion.

Secondly, MPEP § 706.02(j) requires that there is a reasonable expectation of success from a combination. No such thing is predicted or realized by the prior art. MPEP § 706.02(j) also requires that the prior art reference (or references when combined) must *teach or suggest* all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found *in the prior art and not based on applicant's disclosure*. (Emphasis added). See i.e., *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). In this case no prior art reference teaches or suggests legs with arms protrusions as claimed.

Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Again, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. Here we have no such prior art. Furthermore, the level of skill in the art cannot be relied upon to provide the suggestion to combine references. *Al-Site Corp. v. VSI Int 'l Inc.*, 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999).

Accordingly, it is believed that remaining claims 11 and 12 present novel and non-obvious material. Accordingly, this application is believed in condition for allowance, and a timely Notice of Allowance is earnestly solicited. If any issues remain to be resolved, Applicant's counsel would prefer to resolve them either via email or through a mutually convenient telephone conference.

Respectfully submitted,



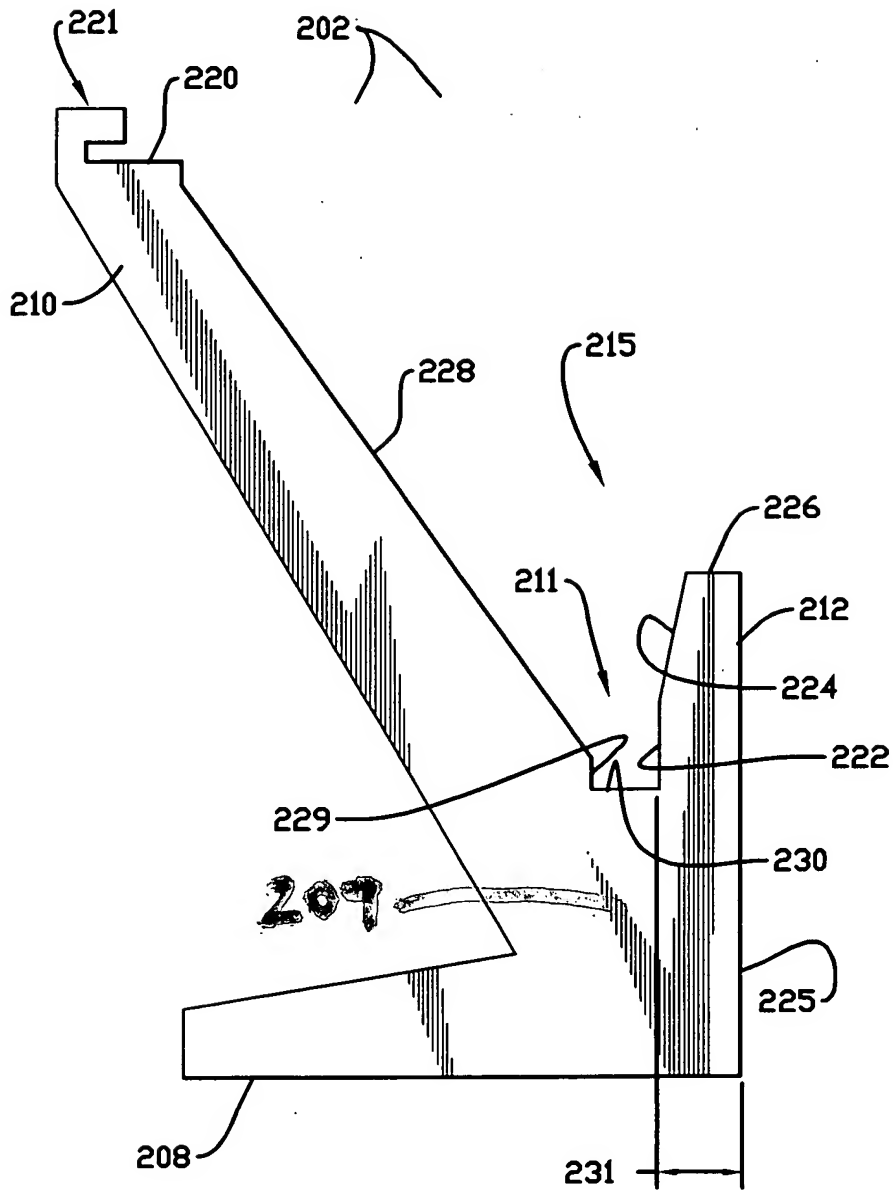
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Encls: Letter to Chief Draftsman with proposed red ink drawing change;
New drawing sheet for Fig. 26; Replacement Abstract page.

CERTIFICATE OF MAILING (37 C.F.R. §1.8)

The undersigned attorney hereby certifies that the foregoing Amendment and all appurtenant enclosures, if any, is/are being deposited with the United States postal service, first class postage pre-paid, in an envelope addressed to Commissioner for Patents, Mail Stop: Non Fee Amendment, P. O. Box 1450, Alexandria, VA 22313-1450 on this 30th day of June 2004.


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209